

U-999/CI-92-96 ORDER DENYING PETITION FOR RECONSIDERATION,  
GRANTING IN PART AND DENYING IN PART PETITIONS FOR CLARIFICATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
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Commissioner

In the Matter of the Accounting  
and Ratemaking Effects of the  
Statement of Financial  
Accounting Standard No. 106

ISSUE DATE: November 2, 1992

DOCKET NO. U-999/CI-92-96

ORDER DENYING PETITION FOR  
RECONSIDERATION, GRANTING IN  
PART AND DENYING IN PART  
PETITIONS FOR CLARIFICATION

**PROCEDURAL HISTORY**

On September 22, 1992, the Commission issued its ORDER ADOPTING ACCOUNTING STANDARD AND ALLOWING DEFERRED ACCOUNTING in this Docket. In that Order the Commission adopted Statement of Financial Accounting Standards (SFAS) 106 accrual accounting for Minnesota utility recordkeeping and ratemaking purposes, subject to Commission review for prudence and reasonableness of the other post-employment benefit (OPEB) programs, expenses, and all calculations in future rate cases. The Commission authorized Minnesota utilities to establish deferred accounting for the increased cost resulting from a change to SFAS 106 accounting, with the deferred balance subject to rate case review. Deferred accounting would be allowed for each utility for three years beginning January 1, 1993, or until the issue date of the Order setting final rates following a general rate case, whichever occurs first.

On October 2, 1992, US WEST Communications, Inc. (US WEST) filed a petition for clarification of the September 22 Order.

On October 12, 1992, the Department of Public Service (the Department) filed a petition for reconsideration and clarification of the Commission's September 22 Order, and also a reply to US WEST's petition for clarification. Another petition for clarification was filed on the same date by the Residential Utilities Division of the Office of the Attorney General (RUD-OAG).

On October 21 and October 22, 1992, comments were filed by Dakota Electric Association (Dakota), Minnesota Power, Northern States Power Company (NSP), and the Minnesota Telephone Association (MTA).

The matter came before the Commission for consideration on October 27, 1992.

## FINDINGS AND CONCLUSIONS

Numerous issues were raised by the parties in their petitions for reconsideration and for clarification. The Commission will consider them individually.

### I. External Funding

#### The Commission Order

In the September 22 Order, the Commission noted that SFAS 106 does not require funding for OPEB obligations. The Commission did not make a determination regarding the proper funding methodology for OPEB obligations. At p. 6 of the Order the Commission stated:

The treatment of the transition obligation, including the proper amortization period assigned, and **the propriety of funding the OPEB obligation will be decided in each rate case, on a case by case basis.**

Emphasis added.

#### Positions of the Parties

In its petition for reconsideration, the Department urged the Commission to require external funding for OPEB obligations, "to provide assurances that these obligations, which will be charged to ratepayers, will actually be paid to the employees." In the alternative, the Department asked the Commission to establish a presumption that external funding of OPEB obligations is required. The burden of overcoming the presumption would be on the utility or other party seeking to demonstrate in a general rate case that another alternative to external funding is preferable.

In their comments, Dakota, MTA, Minnesota Power and NSP all opposed the imposition of a requirement of external funding.

#### Commission Analysis

The Commission finds that the Department has raised no new issue regarding funding which would warrant reconsideration of the September 22 Order. The Commission agrees with the Department that security for the OPEB obligations is a worthy goal. The Commission notes, however, that other methods of securing the obligations for ratepayers, such as rate case adjustments, could

also be effective. The Commission also notes that flexibility is an important tool for utilities who are seeking the most cost-effective means of providing for future OPEB obligations. Allowing funding methodologies to be reviewed on a case by case basis will allow utilities to choose the funding methods offering the greatest tax advantages and long term effectiveness. The Commission will not reconsider its decision to review funding decisions on a case by case basis.

The Commission will clarify one point regarding funding, however. In future rate case determinations, the Commission will wish to compare the cost effectiveness of funding methods with other alternatives. In order to compare alternatives effectively, the Commission must have certain comparative information available. The Commission will therefore clarify the September 22 Order to establish certain requirements for utilities filing future rate cases. In addition to information regarding the funding method they have chosen for OPEB obligations, utilities must file detailed evidence and arguments supporting and justifying the choice of their funding methods over funding alternatives. This requirement will force utilities who are choosing funding methodologies to examine the alternatives and to articulate the reasons behind their choice for the record.

## **II. Amortization Period**

### **The Commission Order**

In its September 22 Order, the Commission stated that the proper amortization period for transition obligations would be determined on a case by case basis. At p. 6 of the Order, the Commission stated:

**The treatment of the transition obligation, including the proper amortization period assigned, and the propriety of funding the OPEB obligation will be decided in each rate case, on a case by case basis.**

Emphasis added.

### **Positions of the Parties**

In its petition for reconsideration, the Department urged the Commission to establish a maximum amortization period of 20 years for the recovery of transition costs. The Department stated that this time limitation was consistent with the methods of SFAS 106. The Department reasoned that a maximum amortization period would narrow the range of issues to be determined in each rate case.

The MTA supported the Department's request for an amortization time limit of 20 years; Minnesota Power did not oppose the request. Dakota stated that the better choice would be the amortization of transition costs over the remaining life

expectancy of a utility's transition employees. NSP stated that a limit to amortization periods is not necessary and is not appropriate.

### Commission Analysis

In its September 22 Order, the Commission set out the basic principles of OPEB accounting which must be followed by Minnesota utilities for ratemaking purposes. At the same time, the Commission chose to retain flexibility in such issues as the treatment of the transition obligation, including the proper amortization period assigned. The Commission recognized the great diversity of Minnesota utilities which will be affected by the changeover to accrual accounting of OPEB obligations. It is in the best interests of ratepayers to allow these utilities the greatest flexibility consistent with SFAS accounting and prudence and reasonableness.

The Department has presented no evidence to convince the Commission that a 20 year limit should be placed on amortization periods. The Commission will continue to examine the propriety of utility amortization periods on a case by case basis.

### **III. Sharing**

#### The Commission Order

In its September 22 Order, the Commission stated in Order Paragraph No. 1:

The Commission adopts SFAS 106 accrual accounting for Minnesota utility recordkeeping and ratemaking purposes, subject to Commission review for prudence and reasonableness of the OPEB programs, expenses, and all calculations in future rate cases.

#### Positions of the Parties

In its filings prior to the September 22 Order, the Department urged the Commission to require a sharing of the transition obligation between shareholders and ratepayers. The Commission neither adopted nor ruled out the concept of sharing in its September 22 Order. In its petition for clarification, the Department asked the Commission to insert the words "and the appropriate allocation of such expenses to ratepayers" into Order Paragraph No. 1 of the September 22 Order. According to the Department, the addition would clarify that the option of ratepayer/shareholder cost sharing would be examined by the Commission in all future rate cases.

The four utilities who submitted comments opposed the Department's proposed language addition. NSP and Minnesota Power both stated that the request for clarification was actually a

substantive request for reconsideration, which should be denied. According to the utilities, the Commission's future reviews of filings for prudence and reasonableness will determine cost allocations.

#### Commission Analysis

The Commission finds that the Department's proposed language addition is unnecessary and inappropriate. The Commission's Order language, especially the intention of reviewing "all calculations," conveys the concept of a thorough review of prudence and reasonableness. The Commission stated throughout the Order that only those costs which are deemed prudent and reasonable will be recovered by a utility. If an expense is found unreasonable or imprudent, and recovery is denied, shareholders will be responsible for the expense. This has consistently been the viewpoint of the Commission, and is expressed clearly in the Order. The Department's requested language change will not be implemented.

#### **IV. Amount Deferred**

##### Positions of the Parties

The RUD-OAG requested clarification regarding the portion of the accrued OPEB expense which can be deferred. According to the RUD-OAG, the Order was not clear that deferral should be limited to the difference between the SFAS accrued costs and the pay-as-you-go costs, considered on an annual basis.

The commenting utilities agreed that the amount deferred will be the difference between the yearly accrual and the actual pay-as-you-go expense.

##### Commission Analysis

The Commission agrees with the RUD-OAG's interpretation of the proper deferred OPEB expense. While the Commission believes this concept was conveyed clearly at least twice in the September 22 Order, the Commission will further clarify the concept at the RUD-OAG's request. The Commission will clarify that the deferral should be limited to the difference between the SFAS accrued costs and the pay-as-you-go costs, considered on an annual basis.

#### **V. Time Limits for Deferred Accounting**

##### The Commission Order

In its September 22 Order, the Commission set a time limit for utilities establishing deferred accounting for the difference between the SFAS accrued costs and the pay-as-you-go costs. At Order Paragraph No. 2, the Commission stated:

Deferred accounting will be allowed for each utility for three years beginning January 1, 1993, or until the issue date of the Order setting final rates following a general rate case, whichever occurs first.

#### Positions of the Parties

Both the Department and the RUD-OAG sought clarification of the treatment of deferred costs if no rate case is filed by a utility within three years from January 1, 1993. The Department recommended a complete denial of recovery of the deferred balance if no rate case is filed within the three year period.

Dakota, the MTA and Minnesota Power disagreed with the Department's recommendation. The utilities believed that a failure to file a rate case within three years would not mean a complete denial of recovery, but would mean that no further deferral would be allowed without Commission review and approval.

#### Commission Analysis

The Commission will clarify its September 22, 1992 Order to identify specifically the treatment of deferred accounts beyond the three year period beginning January 1, 1993. If no rate case is commenced within that three year period, a utility will not be allowed recovery of the deferred amount. If a rate case is filed within the three years, the utility will be allowed to continue deferring OPEB expenses until a final Order is issued in the rate case. Since there is a 10 month statutory time limit for rate cases, a utility which files a rate case within the three year period will actually have approximately three years and 10 months from January 1, 1993 in which to receive a final Order in the rate case and recover the share of deferred costs which are found reasonable and prudent in the rate case.

#### **VI. Tracker Account or Regulatory Asset**

In its petition for clarification, the RUD-OAG asked the Commission to clarify if it meant the deferred amount of OPEB expenses to be considered a tracker account or a regulatory asset. During the October 27, 1992 hearing, the representative of the RUD-OAG withdrew their petition for clarification. The Commission will therefore not address this question in this Order.

#### **VII. Effect of the Commission's Order Upon the US WEST Incentive Plan**

##### The Commission Order

In its September 22, 1992 Order, the Commission stated that its decision regarding SFAS 106 would not change the terms of the

US WEST incentive plan:

This Order will not change the terms of the incentive plan approved for US WEST Communications, Inc. (US WEST). \*\*\*\* Whether through an incentive plan proceeding for US WEST or a general rate case for another utility, each utility must prove its case before the Commission for recovery of any increased costs due to changes in accounting.

### Positions of the Parties

US WEST asked the Commission to clarify its position regarding the effect of the SFAS 106 decision on US WEST's incentive plan. US WEST found a contradiction in two Commission statements: the Commission first said that the SFAS 106 decision would not affect US WEST's plan, then stated that "a proceeding" would be necessary, in which US WEST "must prove its case before the Commission for recovery." According to US WEST, the requirement of a proceeding to prove prudence and reasonableness would amount to a change in the incentive plan, since no such proceeding is necessary as the plan is written.

US WEST stated that it would accept the idea of a review of the prudence and reasonableness of OPEB expenses, although not required under the incentive plan. US WEST stated that it needed to know as soon as possible how much to fund for the OPEB expenses. The Company therefore requested that the Commission reach a determination of prudence and reasonableness on an expedited basis. The Company stated that any review of prudence should not be tied to the basic provision for sharing which has been established in the US WEST incentive plan.

Although the Department did not oppose the concept of a review of US WEST's OPEB expenses, the Department did not believe that it was necessary to conduct such a review on an expedited basis. The Department pointed out that the change in OPEB accounting would not affect US WEST's level of sharing until after 1993.

### Commission Analysis

The Commission finds that the terms of its September 22, 1992 Order did not constrain US WEST from petitioning for a determination of the prudence and reasonableness of OPEB expenses. It is always within the Commission's discretion to examine issues of prudence and reasonableness, and the Commission will willingly consider a petition for such review if submitted by US WEST.

In a review of US WEST's OPEB expenses, the Commission will expect to examine information and all calculations regarding both the prudence and reasonableness of US WEST's expenses, and the Company's proposed means for recovery of the expenses. The latter issue would encompass such issues as funding and amortization.



The Commission recognizes that US WEST has genuine business concerns which would render an expedited review of OPEB expenses desirable. Once a petition has been submitted by US WEST and other parties have had an opportunity to comment, the Commission will reach a determination regarding OPEB expense recovery as expeditiously as possible.

#### ORDER

1. The Department's petition for reconsideration regarding external funding is denied.
2. The Department's petition for reconsideration regarding the amortization period is denied.
3. The Department's petition for clarification regarding the concept of sharing transition obligations between shareholders and ratepayers is denied.
4. Paragraph No. 2 of the Commission's September 22, 1992 Order is clarified as follows:

The accrued OPEB expense which can be deferred is limited to the difference between the SFAS accrued costs and the pay-as-you-go costs, considered on an annual basis.

5. Paragraph No. 2 of the Commission's September 22, 1992 Order is clarified as follows:

Deferred accounting will be allowed for each utility for three years beginning January 1, 1993. If no rate case is commenced within that three year period, a utility will not be allowed recovery of the deferred amount. If a rate case is filed within the three years, the utility will be allowed to continue deferring OPEB expenses until a final Order is issued in the rate case.

6. The Commission's September 22, 1992 Order is clarified as follows:

Utilities filing future rate cases must file, in addition to information regarding the funding method they have chosen for OPEB obligations, detailed evidence and arguments supporting and justifying the choice of their funding methods over funding alternatives.

7. US WEST may file a petition for determination of the prudence and reasonableness of its OPEB expenses. The petition should include information and all calculations regarding both the prudence and reasonableness of US WEST's OPEB expenses, and the Company's proposed means for recovery of the expenses, including such issues as funding and amortization.
8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)